

IC 5-17

ARTICLE 17. PUBLIC PURCHASES

IC 5-17-1

Chapter 1. Purchases and Leases of Personal Property by State Agencies

IC 5-17-1-1

Compliance with requirements of chapter; limits; exemptions

Sec. 1. (a) This chapter applies to leases of equipment whether or not title passes from the lessor to the lessee. The term "purchaser" as used in this chapter includes persons who make leases for equipment.

(b) Any person, officer, board, commissioner, department, commission, or purchasing agent (designated as purchaser in this chapter) duly authorized and empowered by law or delegated and entrusted with authority to make purchases of material or materials, equipment, goods, and supplies, except current utility bills, or leases of equipment, for any unit of the state shall comply with the requirements of this chapter whenever the total amount of any purchase exceeds ten thousand dollars (\$10,000) or total annual rental payment under any lease exceeds five thousand dollars (\$5,000).

(c) In all cases of purchase of materials and supplies where the total amount of any such purchase does not exceed the sum of ten thousand dollars (\$10,000), and in all cases of the lease of equipment where the annual rental payment does not exceed five thousand dollars (\$5,000), the purchaser or lessee may buy or lease in the open market without the giving of notice or the receiving of bids.

(d) All purchases of similar materials, equipment, goods, and supplies by any government unit from a person during a six (6) month period under subsection (c) may not exceed ten thousand dollars (\$10,000), and the total annual rental payments to a person under all leases for equipment under subsection (c) may not exceed five thousand dollars (\$5,000).

(e) Materials, equipment, goods, and supplies may be purchased, or such equipment may be leased, from the United States government or any agency, division, or instrumentality thereof, without the giving of notice or the receiving of bids.

(Formerly: Acts 1945, c.99, s.1; Acts 1953, c.32, s.1; Acts 1963, c.328, s.1; Acts 1969, c.483, s.1.) As amended by Acts 1977, P.L.61, SEC.1; Acts 1979, P.L.45, SEC.1; Acts 1981, P.L.57, SEC.13; P.L.53-1986, SEC.1.

IC 5-17-1-2

Advertising for purchase of materials, etc., and lease of equipment; specifications; notice of time and place for receiving bids; procedures; open market; submission of certified check or bond by bidder; rejection

Sec. 2. (a) In all cases of advertising for the purchase of materials, equipment, goods and supplies, and the lease of equipment, the

purchaser shall prepare specifications describing with reasonable particularity the kind, quantity and quality of all materials, equipment, goods, and supplies which may be needed for any designated period. It may be provided in such specifications that bids will be received and contracts let, separately, for each line or class of materials, equipment, or supplies, or the specifications may provide that bids will be received and contracts let for the purchase or lease of an unspecified number of items at a fixed price per unit.

(b) Notice of the time and place for receiving of bids for the purchase or lease shall be given in accordance with IC 5-3-1.

(c) If the cost of the materials, equipment, goods, and supplies to be purchased does not exceed ten thousand dollars (\$10,000) or the equipment to be leased does not exceed five thousand dollars (\$5,000), the purchaser may invite bids from not less than three (3) persons, firms, limited liability companies, or corporations, known to deal in the particular class or classes of materials, equipment, goods, or supplies described in the specifications, by mailing to each person, firm, limited liability company, or corporation a copy of such specifications not less than three (3) days before the time fixed for receiving bids. Said purchaser or purchasers shall, after a satisfactory bid is received, award a contract to the lowest and best bidder for each class of supplies, equipment, goods, or materials required, except that if less than three (3) bids are received, to the best bid so received.

(d) If any purchaser invites or advertises for bids for any material, materials, equipment, goods or supplies, pursuant to the provisions of this chapter, and does not receive a valid bid therefor or for any item thereof, in that event any such item or items of material, materials, equipment, goods or supplies so sought or advertised for may be purchased or equipment may be leased on the open market without further advertisement for bids.

(e) Any bidder may submit with his bid a certified check or the bond of a surety company admitted to do business in this state in the amount determined and specified by the purchasing agent in the notice of the letting.

(f) The purchaser may reject any and all bids and ask for new bids.

(Formerly: Acts 1945, c.99, s.2; Acts 1969, c.483, s.2.) As amended by Acts 1977, P.L.61, SEC.2; Acts 1979, P.L.45, SEC.2; Acts 1981, P.L.57, SEC.14; P.L.38-1984, SEC.1; P.L.8-1993, SEC.69.

IC 5-17-1-2.5

Road or street work contracts; open price; material price adjustments; limitation

Sec. 2.5. (a) Notwithstanding sections 2 and 3 of this chapter and IC 8-23-9, the Indiana department of transportation may award a public works contract for road or street work subject to the open price provisions of IC 26-1-2-305.

(b) Such a contract may provide that prices for construction materials, including but not limited to liquid asphalts, are subject to

price of materials adjustment. When price adjustments are part of the contract, the method of price adjustment shall be specified in the contract.

(c) Nothing in this section authorizes the expenditure of money over and above the total amount of money appropriated by the state for road and street contracts.

As added by Acts 1980, P.L.34, SEC.1. Amended by Acts 1981, P.L.57, SEC.15; P.L.18-1990, SEC.15.

IC 5-17-1-3

Prescribed forms for trust bids, offers, proposals, estimates, or contracts

Sec. 3. (a) A purchaser may not make any purchase or contract for the purchase of any material, equipment, goods, or supplies or the lease of equipment unless the bid, offer, proposal, estimate, or contract of any person, firm, limited liability company, or corporation offering any and all such articles for sale or equipment for lease is executed upon the forms prescribed by the state board of accounts setting forth the quantity, quality, and purchase or lease price of every article and thing proposed for sale or lease.

(b) A bid, offer, proposal, estimate, or contract submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

(Formerly: Acts 1945, c.99, s.3.) As amended by Acts 1977, P.L.61, SEC.3; P.L.336-1989(ss), SEC.16; P.L.8-1993, SEC.70.

IC 5-17-1-4

Delivery of original purchase order or lease; filing copies

Sec. 4. Within thirty (30) days after the acceptance of any bid, offer, proposal, estimate, or contract for purchase of materials, equipment, goods, and supplies, or lease of equipment, the purchaser or purchasers shall:

- (1) deliver in person or mail to the seller or lessor the original of each purchase order or lease;
- (2) retain a copy for his own records; and
- (3) when any purchase or lease is made for the state or any agency or instrumentality thereof, file a copy of the purchase order or lease with the disbursing officer for the unit.

(Formerly: Acts 1945, c.99, s.4.) As amended by Acts 1977, P.L.61, SEC.4; Acts 1980, P.L.74, SEC.13; Acts 1981, P.L.57, SEC.16; P.L.53-1986, SEC.2.

IC 5-17-1-5

Bidders; violations; felony; sanction

Sec. 5. A person making any such bid, offer, proposal, estimate or contract to sell or lease, who knowingly violates this chapter commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of his conviction.

(Formerly: Acts 1945, c.99, s.5.) As amended by Acts 1977, P.L.61, SEC.5; Acts 1978, P.L.2, SEC.520.

IC 5-17-1-6

Violations; felony

Sec. 6. Any person, officer, board, commissioner, department commission or purchasing agent who knowingly violates any of the terms of this chapter commits a Class D felony.

(Formerly: Acts 1945, c.99, s.6.) As amended by Acts 1977, P.L.61, SEC.7.

IC 5-17-1-7

Liability of purchasers for wrongful performance

Sec. 7. Where in this chapter a duty is imposed upon the purchasers, such duty shall be performed by the person, officer, clerk, or employee whose duty or employment require that they act for any board, commission, department, or unit of government making any such purchase, and any such person, officer, clerk, or employee shall be liable on his bond for any loss or damage resulting from a wrongful performance of such duty or from any violation of any of the provisions of this chapter.

(Formerly: Acts 1945, c.99, s.7.) As amended by P.L.25-1986, SEC.94.

IC 5-17-1-8 Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-17-1-8.1

Chapter to be supplemental to all laws; limitations

Sec. 8.1. (a) This chapter is supplemental to all laws concerning the purchase of material, equipment, goods, and supplies and the lease of equipment by the state. However, this chapter does not preclude the extension beyond the contractual time period of contracts let pursuant to the provision of this chapter as an alternative to advertising for new bids.

(b) This chapter does not apply to:

- (1) purchases or leases made by the Indiana department of transportation;
- (2) purchases made under IC 5-22;
- (3) state supported institutions of higher education;
- (4) the legislative department of state government; or
- (5) the judicial department of state government;

except that copies of purchase orders or leases shall be kept on file and be open to public inspection.

As added by Acts 1981, P.L.57, SEC.17. Amended by P.L.53-1986, SEC.3; P.L.18-1990, SEC.16; P.L.49-1997, SEC.31.

IC 5-17-1-9

Repealed

(Repealed by Acts 1981, P.L.57, SEC.45.)

IC 5-17-1-10**Procurement preferences**

Sec. 10. A purchase under this chapter is subject to procurement preferences provided under IC 5-22-15.

As added by P.L.19-1990, SEC.4. Amended by P.L.49-1997, SEC.32.

IC 5-17-1-11**Payment of gross retail tax condition of doing business**

Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of personal property made after June 30, 2003, by an agency (as defined in IC 4-13-2-1) or a state educational institution (as defined in IC 20-12-0.5-1) to the same extent as if the lease or purchase were subject to IC 5-22.

As added by P.L.254-2003, SEC.2.